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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/938,793	08/24/2001	Donald L. Nisley	01RE025 (DODG:0044)	2159

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EXAMINER
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TORRES, MELANIE

ART UNIT	PAPER NUMBER
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3683

DATE MAILED: 03/31/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/938,793

Applicant(s)

NISLEY ET AL.

Examiner

Melanie Torres

Art Unit

3683

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 09 January 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-10 and 12-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,6,7,10,12-15 and 17-26 is/are rejected.
- 7) ☒ Claim(s) 2-5,8,9 and 16 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

2. Claims 1, 6, 7, 12, 13-15, 17, 22-24 and 26 are rejected under 35 U.S.C. 102(e) as being anticipated by Tripathy.

Re claims 1, 13, 14, 22-24 and 26, Tripathy discloses a bearing assembly comprising a bearing insert (16), a bearing housing (12) adapted to house the bearing insert, a cover (30) removably securable to the bearing housing and a rotatable flinger (32, 34) secured to the cover, the flinger having a first opening therethrough, the first opening being adapted to receive a rotatable shaft (14) and to enable the rotatable flinger to form a compression seal against the rotatable shaft and an outer flange (62) disposed external to the cover capable of flinging material that comes into contact with the outer flange away from the bearing assembly.

Re claims 6 and 7, Tripathy discloses wherein the bearing insert comprises a plurality of ball bearings. (Figure 1)

Art Unit: 3683

Re claim 12, Tripathy discloses wherein the cover (30) is adapted to form an interior volume when secured to the bearing housing to the same extent as applicant's invention.

Re claim 15, Tripathy discloses wherein the rotatable member (32, 34) comprises an inner flange and an outer flange (62, 48), the inner and outer flanges being disposed on opposite sides of the cover to secure the rotatable member to the cover.

Re claim 17, Tripathy discloses wherein grease forms a seal between the rotatable member and the cover. (Column 3, lines 17-20)

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 8, 19-21 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tripathy as applied above in view of Motsch.

Re claims 8, 19-21 and 25, Tripathy does not teach wherein the cover comprises a peripheral flange and the bearing housing comprises an annular groove, wherein the cover is secured to the bearing housing by elastically deforming the cover to position the peripheral flange within the annular groove. Motsch teaches wherein a cover (28)

Art Unit: 3683

comprises a peripheral flange and the bearing housing comprises an annular groove (29, 30), wherein the cover (28) is secured to the bearing housing by elastically deforming the cover to position the peripheral flange within the annular groove. It would have been obvious to have used the attaching means of Motsch in the invention of Tripathy as a elastically deforming a cover to position the peripheral flange with the annular groove (snap attachment) is a well known alternate equivalent means for attaching two components that is well known in the art.

5. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tripathy as applied to claim 1 above in view of Tooley.

Re claim 10, Tripathy does not teach wherein the bearing assembly further comprises a second cover and a second rotatable flinger secured to the second cover to form a seal between the bearing assembly and the shaft, the second cover and second rotatable flinger being disposed opposite the first cover and the first rotatable flinger on the bearing housing. Tooley teaches a bearing assembly further comprises a second cover and a second rotatable flinger secured to the second cover to form a seal between the bearing assembly and the shaft, the second cover and second rotatable flinger being disposed opposite the first cover and the first rotatable flinger on the bearing housing. (Fig. 2) It would have been obvious to have included a second seal/cover assembly opposite the first assembly so as to protect the internal components of the apparatus from both ends of the housing.

Art Unit: 3683

6. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tripathy as applied to claims 14, 15 and 17 above in view of Uhen.

Re claim 18, Tripathy does not teach a sealing assembly comprising a grease relief. Uhen teaches a sealing assembly (90) comprising a grease relief (118). It would have been obvious to one of ordinary skill in the art to have applied the teachings of Uhen to the assembly of Tripathy in order to relieve excess grease from accumulating in the seal.

#### ***Allowable Subject Matter***

7. Claims 5, 8, 9, and 16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Response to Arguments***

8. Applicant's arguments filed January 9, 2004 have been fully considered but they are not persuasive. Applicant claims that Tripathy does not teach a rotatable flinger. However, as was explained in the rejection, the rotatable flinger is being interpreted by the examiner as elements 32 and 34 and although element 34 does not rotate, element 32 does rotate and therefore reads on the limitation as claimed.

#### ***Conclusion***

Art Unit: 3683

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melanie Torres whose telephone number is (703)305-0293. The examiner can normally be reached on Monday-Friday, 6:30 AM - 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Lavinder can be reached on (703)308-3421. The fax phone numbers for the organization where this application or proceeding is assigned are (703)308-2571 for regular communications and (703)308-2571 for After Final communications.

Art Unit: 3683

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-1113.

MT  
March 23, 2004

*Robert A. Siconolfi 3/29/04*  
ROBERT A. SICONOLFI  
PATENT EXAMINER